

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
HELENA DIVISION

JOSHUA J. HOWELL,

Petitioner,

vs.

JAMES SALMONSEN, MONTANA
DEPARTMENT OF CORRECTIONS,
and ATTORNEY GENERAL OF THE
STATE OF MONTANA,

Respondents.

CV 22–44–H–BMM–KLD

ORDER

United States Magistrate Judge Kathleen DeSoto entered her Findings and Recommendations in this case on July 27, 2022 (Doc. 9). Judge DeSoto recommended that Petitioner Howell’s Petition (Doc. 1) be dismissed without prejudice. Judge Johnston further recommended that a certificate of appealability be denied.

Neither party filed objections to the Findings and Recommendations. The parties have waived the right to de novo review thereof. 28 U.S.C. § 636(b)(1)(C). Absent objection, this Court reviews findings and recommendations for clear error. *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003) (en banc); *Thomas v. Arn*, 474 U.S. 140, 149 (1985). Clear error exists if the Court is left

with a “definite and firm conviction that a mistake has been committed.” *United States v. Syrax*, 235 F.3d 422, 427 (9th Cir. 2000) (citations omitted). Reviewing for clear error and finding none,

IT IS ORDERED that Judge DeSoto’s Findings and Recommendations (Doc. 9) are **ADOPTED IN FULL**. Petitioner Howell’s Petition (Doc. 1) is **DISMISSED** without prejudice and a certificate of appealability is **DENIED** as set forth in Judge Johnston’s Findings and Recommendations.

DATED this 31st day of August, 2022.

A handwritten signature in blue ink, reading "Brian Morris".

Brian Morris, Chief District Judge
United States District Court